

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

-vs-

DECISION and ORDER

11-CR-6181

RAUL ABIDEL MARTINEZ,

Defendant.

Siragusa, J. This case was referred by order to the undersigned, docketed on October 28, 2011, ECF No. 8, by Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). On June 12, 2012, June 14, 2012, August 7, 2012, Magistrate Judge Payson conducted a hearing to determine whether Defendant was competent to stand trial. On September 28, 2012, Magistrate Judge Payson filed a Report and Recommendation (“R&R”) ECF No. 37, recommending that the Court determine that the Defendant is not competent to stand trial. The time has passed to file any objections to the R&R, and none have been filed.

Accordingly, for the reasons set forth in the Magistrate Judge Payson’s R&R, the Court finds that the Defendant is not competent to stand trial and orders that the Defendant be committed to the custody of the Attorney General for a reasonable period, not to exceed four months, to determine “whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward.” 18 U.S.C. § 4241(d)(1).

IT IS SO ORDERED.

Dated: Rochester, New York
October 18, 2012

ENTER:

/s/ Charles J. Siragusa
CHARLES J. SIRAGUSA
United States District Judge